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NO. 80-2032

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

AMERICAN LAW ASSOCIATION,
an unincorporated association,

PETITIONER,

vs.

JOHN MERKEL, ETC., et al,

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITIONER'S REPLY TO THE MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

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OCTOBER TERM, 1980

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AMERICAN LAW ASSOCIATION,
an unincorporated association,

PETITIONER,

vs.

JOHN MERKEL, in his capacity as
United States Attorney for the
Western District of Washington, et al,

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TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITIONER'S REPLY TO THE MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

The pertinent facts in this matter are summarized in the Petition for a Writ of Certiorari.

In its Memorandum in Opposition, Respondents argue that because the grand jury investigation below

has been terminated, it is "unlikely" that there could be a reptitious demand for information pertaining to Petitioner's membership roster and financial affairs. (Memo in Opposition 4). When queried, counsel for Respondents could not give any assurance that there would be no further grand jury investigation of the American Law Association or of its members.

The circumstances of this case present a gross inequity between government and citizen which should not be condoned by the Court: if an organization challenges a grand jury subpoena issued to a neutral third party in violation of its First Amendment rights, loses before the trial court, and further fails to secure a stay pending appeal, all appeal rights will be lost if the third party complies with the subpoena. Furthermore, the government may at any time voluntarily terminate the grand jury investigation and claim, as it does here, the matter is not capable of repetition. On the other hand, should the government lose before the trial court it may appeal all the way to this Court, with the issue "ripe" at each stage of the appeal.

This is not equal justice. Petitioner respectfully submits that the petition for writ of certiorari should be granted.

Respectfully submitted,

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August , 1981